

REMARKS

Claims 39-42 are pending in this application and are currently amended. In response to the restriction requirement mailed on March 7, 2006, Applicant previously canceled claims 1-38 and 43, without prejudice. Applicant has added new claims 44-57, which are directed to the same species in elected Group II as elected claims 39-42. Therefore, Applicants submit that new claims 44-57 are fully supported by the original specification and no new matter has been added by these claims. Furthermore, Applicants respectfully submit that a new search is not required by new claims 44-57 and, therefore, Applicants respectfully request entry and consideration of these new claims along with amended claims 39-42.

Priority Claim

The Examiner noted that Applicant has not yet filed a certified copy of the Korean application no. 2003-0066108 to which the present application claims priority under 35 U.S.C. § 119. To satisfy this requirement, Applicant has filed concurrently herewith a certified copy of Korean application no. 2003-0066108.

Claim Rejections Under 35 U.S.C. § 112

Claims 39 and 40 were rejected under 35 U.S.C. § 112 as being indefinite. In particular, the Examiner points the limitations of “one metal spacer” and “two end portions” in claim 39 and “adjacent metal spacers” and “end portions” in claim 40 as lacking antecedent basis. The Examiner states that when reciting a new limitation, the limitation begins with the words “a” or “an” and all subsequent recitations of the limitations should begin with the words “the” or “said.”

Applicant respectfully disagrees that all new limitations must begin with “a” or “an.” For example, it is common practice to begin new limitations with numerical phrases such as “at least one,” “one or more,” “two,” etc., when that is what is intended to be explicitly claimed. In such instances, placing the words “a” or “an” before the phrase “at least one” or “two,” for example,

would be grammatically incorrect and lead to ambiguity and indefiniteness. Applicant respectfully submits that claims 39 and 40 as originally written were not indefinite.

However, for purposes of clarification only, Applicant has made non-narrowing amendments to claims 39 and 40 to address the Examiner's indefiniteness concerns and expedite prosecution of the present application. Therefore, the Examiner's rejections of claims 39 and 40 as indefinite are now believed to be moot.

Claim Rejections Under 35 U.S.C. § 102

The Examiner rejected claims 39-42 as being anticipated by Hyman. In response to the Examiner's rejection, Applicant has amended claim 39 to recite that "the connection unit is configured to be coupled to a bone structure of a patient by at least two securing members." Hyman discloses a collapsible rod adapted for use as a cane that is not even remotely related to a device configured to be coupled to and stabilize a patient's bone structure (e.g., spine). Therefore, Applicant respectfully submits that Hyman neither discloses nor suggests a connection unit configured to be coupled to a patient's bone structure as now required by amended claim 39. Accordingly, Applicant respectfully submits that claim 39, as amended, is now patentable over Hyman and the Examiner's rejection of claim 39 as anticipated by Hyman has been overcome.

Claims 40-42 have been amended to conform to non-narrowing amendments made to claim 39 for purposes clarifying the intended scope of the claim. Since claims 40-42 depend from claim 39, Applicant respectfully submits that these dependent claims are also patentable over Hyman and the Examiner's rejection of claims 40-42 as anticipated by Hyman has been overcome.

Claim Rejections Under 35 U.S.C. § 103

The Examiner further rejected claims 39-42 as being unpatentable over Toor. Toor discloses a flexible, multi-segmented support structure that is particularly suited for use as a tent pole. Therefore, Applicant respectfully submits that Toor neither discloses nor suggests a connection unit configured to be coupled to a patient's bone structure as now required by amended

claim 39. Accordingly, Applicant respectfully submits that claim 39, as amended, is now patentable over Toor and the Examiner's rejection of claim 39 as obvious in view of Toor has been overcome.

Since claims 40-42 depend from claim 39, Applicant respectfully submits that these dependent claims are also patentable over Toor and the Examiner's rejection of claims 40-42 in view of Toor has been overcome.

New Claims 44-57

New claims 44-57 have been added to further claim additional embodiments of the elected species of Group II.

New claims 44-45 are dependent upon claim 39 and, therefore, are believed patentable over the cited prior art for at least the same reasons claim 39 is patentable over the cited prior art, as discussed above.

New claims 46-57 are directed to the same species as original claims 39-42 and have been added to provide additional coverage of this inventive species. New independent claims 46 and 52 recite a connection unit comprising a first element configured to be coupled to a first securing member, the first securing member being *configured to engage a bone structure of a patient*; and a second element configured to be coupled to a second securing member, the second securing member being *configured to engage a bone structure* at a different location from the first securing member (emphasis added).

As discussed above, neither Hyman nor Toor disclose or suggest a structure that is configured to be coupled to a bone structure (e.g., spine) of a patient by means of securing members (e.g., pedicle screws). Therefore, Applicant respectfully submits that new independent claims 46 and 52 are patentable over the cited art. Since new claims 47-51 and 53-57 are dependent upon new claim 46 and 52, respectively, Applicant respectfully submits new claims 47-51 and 53-57 are also patentable over the cited art.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 559552000100. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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